IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1128 OF 2006

Shri Sambhaji Shivaji Sawant ....Applicant.

V/s

The State of Maharashtra ....Respondent

Mr. R.V. More for the applicant.
Ms. S.D. Shinde, APP for the State.

CORAM: V.M. KANADE, J.
DATE: 27th April, 2006

P.C.

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant has an apprehension that he is likely to be arrested in connection with the complaint which is registered with Juna Rajwada Police Station, District Kolhapur vide C.R. No.40 of 2004 for the offence punishable under sections 420, 34 of the Indian Penal Code and under sections 4, 5, and 6 of Prize Cheats and Money Circulation Schemes (Banning) Act, 1978.

3. In the said complaint, it is alleged by one of the agents who had collected money from various customers that the scheme was floated by the accused No.1

declaring that those agents who secure customers would get prize. It is alleged that this amount was not paid by Chairman Pandurang Kirdat. It is alleged that the applicant was working as a Zonal Officer.

4. The learned Counsel appearing for the applicant submits that the entire amount which was collected was paid by the applicant to the Chairman which fact is mentioned in the complaint itself. The complainant is not a customer who has made a grievance that he has not received goods but is an agent who has complained that the Chairman did not pay the prize which he had promised to pay to the agents. The learned Counsel submitted that in another complaint which was filed against the applicant this Hon'ble Court by order dated 29/6/2004 passed in Criminal Application No. 2097 of 2004, was pleased to grant anticipatory bail in favour of the applicant herein. He submitted that on the same set of facts this complaint has been filed and, therefore, the anticipatory bail may be granted.

5. The learned APP for the State invited my attention to various statements which were recorded by the Investigating Officer. She has also invited my attention to the affidavit in reply which has been filed in which it is alleged that huge amount was

collected by the present applicant. She, therefore, submitted that the application may be dismissed.

6. I have perused the complaint and the statements of the witnesses which are recorded. It appears that the complaint is made essentially by the agent who has not been paid his prize money as promised by the Chairman. The applicant, in the present case, admittedly, was an employee working in the said firm and even the complaint discloses that the entire amount was paid by the present applicant to the Chairman.

7. In my view, prima facie case is made out by the applicant for grant of anticipatory bail. The applicant was also granted anticipatory bail by this Court earlier in respect of another similar complaint by order dated 29th June 2004 which was passed in Criminal Application No. 2097 of 2004.

8. In the result, the application for anticipatory bail is allowed. The applicant in the event of his arrest in connection with C.R. No. 40 of 2004 registered with Juna Rajwada Police Station, District Kolhapur for the offence punishable under sections 420, 34 of the Indian Penal Code and under sections 4, 5 and 6 of Prize Cheats and Money Circulation Schemes

(Banning) Act, 1978, be released on bail in the sum of Rs 15000/- with one or two sureties in the like amount. The applicant shall report to the concerned Police Station as and when called. The applicant shall not tamper with the evidence or threaten any of the witnesses.

9. Application is accordingly disposed of.

V.M. KANADE, J.